IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 1515 of 2005

Between:

S.Vivekananda, s/o Malakondaiah,
r/o Dakkanur, V.K.Padu Mandal, Nellore District.

..... PETITIONER

AND

1 The Joint Collector, Nellore, Nellore District.
2 The Revenue Divisional Officer, Kavali, Nellore District.
3 The Mandal Revenue Officer, V.K.Padu, V.K.Padu Mandal, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring the proceedings Rc.J.4692/2004 dated 20-12-2004 issued by the 2nd respondent revoking the appointment order of the petitioner as F.P.Shop Dealer of Dakkanur Village, V.K.Padu Mandal, Nellore District, is illegal, arbitrary, unconstitutional, and violative of principles of natural justice and contrary to the A.P.Schedule Commodities (Regulation of Distribution by card system) order 1973 quash the same, and consequently direct the respondents to continue the petitioner as F.P.Shop dealer of Dakkanuru Village V.K.Padu Mandal, Nellore District by supplying the essential commodities forthwith, and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.J.SREENIVASA RAO

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

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ORAL ORDER:

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The petitioner responded to a notification dated 12.4.2003, issued by the 2nd respondent-Revenue Divisional Officer, Kavali, inviting applications for selecting a candidate for being appointed as a Fair Price Shop Dealer for Dakkanuru village of Nellore District. On consideration of the application submitted by the petitioner and other candidates, the 2nd respondent selected the petitioner and appointed him through his order dated 7.1.2004. Alleging that certain facts, having a bearing on the appointment of the petitioner, came to light during the verification of the antecedents, the 2nd petitioner issued a show cause notice dated 22.10.2004 to the petitioner, directing him to explain as to why the order dated 7.1.2004 shall not be revoked. It was alleged that a criminal case was pending against the petitioner, that his wife is a Sarpanch, and his brother is also working as an employee in the postal department. The petitioner claims that he submitted an explanation on 4.11.2004. The 2nd respondent passed an order on 20.12.2004 revoking the order of appointment of the petitioner. The same is challenged in this writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The main contention advanced on behalf of the writ petitioner is that though the petitioner submitted a detailed explanation on 4.11.2004, in response to the show cause notice dated 22.10.2004, the 2nd respondent has neither referred to the same, nor discussed the contents thereof, in the impugned order.

In the ordinary course of things, the petitioner is required to avail the remedy of appeal against the impugned order. One fact which impresses this court to exempt the petitioner from availing the remedy of appeal is that, the 2nd respondent has not even referred to the show cause notice issued by him or the explanation submitted by the petitioner. Issuance of show cause notice is not an empty formality. It is issued with an object to know the point of view of the aggrieved person. The concerned authority may or may not accept the explanation. The ultimate discretion rests with it. But, law requires that the authority shall take into account the explanation submitted by the aggrieved person.

On this short ground, the writ petition is allowed and the impugned order dated 20.12.2004 is set aside, and the matter is remanded to the 2nd respondent for fresh consideration and disposal, duly taking into account the explanation submitted by the petitioner. He shall furnish the reasons in support of his conclusions. No order as to costs.

3.2.2005

CVM

To,

1 The Joint Collector, Nellore, Nellore District.
2 The Revenue Divisional Officer, Kavali, Nellore District.
3 The Mandal Revenue Officer, V.K.Padu, V.K.Padu Mandal, Nellore District.

4 2 CCs to G.P. for Civil Supplies, High Court buildings, Hyderabad (OUT).

5. 2 CD copies.